



Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen Castille
Secretary

September 7, 2005

Mr. Richard Bonner
Deputy District Engineer
U.S. Army Corps of Engineers
Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019

Dear Mr. Bonner:

Enclosed is the permit (Permit No. 0246512-001-GL) for the Modified Waters Deliveries to the Everglades National Park (Modified Waters), Phase: 8.5 Square Mile Area Project, issued under the authority of the Comprehensive Everglades Restoration Plan Regulation Act (CERPRA), Chapter 373.1502, Florida Statutes (F.S.); Title 62, Florida Administrative Code (F.A.C.); and pursuant to the Department's authority under Chapters 373 and 403, Florida Statutes.

Please review this document carefully and make copies for the project site and all appropriate persons associated with the project. Please discuss the document with your staff, contracted/hired personnel, and applicable others to ensure compliance with the conditions and requirements contained therein.

Any party to this order (permit) has the right to seek judicial review of the permit under section 120.68 of the Florida Statutes, by the filing of a Notice of Appeal under rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the Department of Environmental Protection, Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this notice is filed with the Clerk of the Department.

If you have any questions about this document, please contact me at (850) 245-8424.

Sincerely,

Temperince Morgan
Environmental Manager
Water Quality Standards & Special Projects Program

TM/sy

**COMPREHENSIVE EVERGLADES RESTORATION PLAN
REGULATION ACT (CERPRA) PERMIT- CONSTRUCTION
AUTHORIZATION**

PERMITTEE:

U.S. Army Corps of Engineers, Jacksonville District
701 San Marco Boulevard
Jacksonville, FL 32207

ATTENTION:

Mr. Richard E. Bonner
Deputy District Engineer for Project Management

Permit Number: 0246512-001

Project: Modified Waters Deliveries to the Everglades National Park (Modified Waters), Phase: 8.5 Square Mile Area Project

County: Miami-Dade

Date of Issue: September 7, 2005

Expiration Date: September 7, 2010

This permit is issued by the State of Florida Department of Environmental Protection (Department) under the authority of the Comprehensive Everglades Restoration Plan Regulation Act (CERPRA), Chapter 373.1502, Florida Statutes (F.S.); Title 62, Florida Administrative Code (F.A.C.); and pursuant to the Department's authority under Chapters 373 and 403, F.S.

The above named permittee is hereby authorized to initiate the activities described on the application, associated drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof. The activities authorized by this permit must be conducted in conformance with all the provisions of this permit. Failure to comply with all permit conditions and documents referenced herein shall constitute grounds for revocation of the permit and appropriate enforcement action.

This permit constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act, 14 U.S.C. § 1456. Activities described in the related documents are not authorized until the project is determined to be in conformance with all applicable rules and with the general and specific conditions of this permit/certification/authorization, as specifically described below.

PROJECT DESCRIPTION:

The Modified Waters Project is authorized by the Everglades National Park Protection and Expansion Act, enacted by Congress in 1989, which authorized the Secretary of the Army, upon completion of a General Design Memorandum (GDM), to modify the Central and Southern Florida (C&SF) Project. The Department originally authorized the Modified Waters Project in Wetland Resource Permit number S-06, 132604959, which expires on October 23, 2005. The purpose of the Modified Waters Project is to enhance the hydrologic regime in the East Everglades, Northeast Shark River Slough, and Everglades National Park (Park). The 8.5 square mile features of the Project are to mitigate for increased flows of water into Everglades National Park. Project elements include: control structures, overflow weirs, pump stations, roadway modifications, canal backfilling and levee degradation, levees, seepage canals, and stormwater treatment area. The Modified Waters improvements include: L-67A Structures in the L-67A borrow canal, structures S-345A, B, and C through L-67A, structures S-355A & B in the L-29, modifications to the existing S-334, and raising Highway US 41 (Tamiami Trail) where it crosses L-31N. The Modified Waters Project features that have been constructed to date include: water control structures S-356 and S-355 A & B, and the degrade of approximately the lower four miles of the L-67 extension.

The 8.5 Square Mile Area Project (8.5 SMA) is a component of the Modified Waters Project that is specifically designed to provide flood mitigation to an existing residential area in the East Everglades called the 8.5 Square Mile Area. The final U.S. Army Corps of Engineers (Corps) General Re-evaluation Report/Supplemental Environmental Impact Statement (GRR/SEIS), 2000 for 8.5 SMA presents information on the new federally selected flood mitigation plan for the area. The 8.5 SMA will include a perimeter levee constructed around the East Everglades residential area; a seepage collection canal enclosed by levees, and the S-357, which will pump collected seepage into a stormwater treatment area (STA), which will be located southwest of the pump station. These features are designed to mitigate for the increase in water deliveries to the

ENP resulting from the Modified Water Deliveries Project for the area within the interior of the outer levee. A more detailed description of the 8.5 SMA is included in documents 1 through 4 in the Declaration of Reasonable Assurances section of this permit.

This permit only authorizes construction of the 8.5 SMA Phase of the Modified Waters Project and routine maintenance activities for water control structures S-356 and S-355 A & B (already constructed as part of the Modified Waters Project), and S-357 (once constructed). This permit does not constitute operational authorization for any features of the Modified Waters Project.

Approximately 130 acres of wetlands will be directly impacted during construction of the 8.5 SMA Project features through the filling of ditches and berm construction; however, the improved hydrology is predicted to result in a net increase of wetland acreage of 7,464 acres within the 8.5 SMA and the surrounding area of potential affect. All of the surface waters and wetlands to be directly impacted by construction of this project component are Class III Waters.

PROJECT LOCATION:

The 8.5 SMA Project is located approximately 6.6 miles south of Tamiami Trail (U.S. 41), bounded on the west by the Park, and separated from the east by the L-31N flood protection levee and borrow canal. The 8.5 SMA is located in Sections 2, 3, 9-11, 14-17, 20-23, 26-29, and 32-34, Township 55 South, Range 38 East, Miami-Dade County.

DECLARATION OF REASONABLE ASSURANCES:

In issuing this permit, the Department finds that the Corps has given reasonable assurances sufficient to satisfy the requirements of the Comprehensive Everglades Restoration Plan Regulation Act, Section 373.1502, F.S. The Department bases this finding on the following documents, listed by FDEP document number:

- 1) U.S. Army Corps of Engineers, Jacksonville District Modified Waters, Phase: 8.5 Square Mile Area Construction Project Water Quality Certification / Permit Application (March 10, 2005) and associated materials;
- 2) U.S. Army Corps of Engineers, Jacksonville District Final General Reevaluation Report, 8.5 Square Mile Area (July 2000);
- 3) U.S. Army Corps of Engineers, Jacksonville District, Final Supplemental Environmental Impact Statement (July 2000);
- 4) U.S. Army Corps of Engineers, Jacksonville District, Supplement 54 – General Design Memorandum, Modified Water Deliveries to Everglades National Park (June 1992); and,
- 5) Florida Division of State Lands, Title & Lands Record Section, Title Determination in Response to April 21, 2005 Request for Title Review, DEP File No. 0246512-001, Folder 3.

Specifically, there are reasonable assurances, pursuant to section 373.1502, F.S., that

- “The project component will achieve the design objectives set forth in the detailed design documents submitted as part of the application.” This finding is based on document 1 in its entirety, document 2 with emphasis on section 7.0, and document 3 with emphasis on sections 4.11.
- “State water quality standards, including water quality criteria and moderating provisions, will be met. Under no circumstances shall the project component cause or contribute to violation of state water quality standards.” This finding is based on document 1 in its entirety with emphasis on the Construction Solicitation Specifications; document 2; document 3 with emphasis on section 4.11; and document 4.
- “Discharges from the project component will not pose a serious danger to public health, safety, or welfare.” This finding is based on document 1; document 2; document 3; and document 4.
- “Any impacts to wetlands or threatened or endangered species resulting from implementation of the project component will be avoided, minimized, and mitigated, as appropriate.” This finding is based on document 1 in its

entirety with emphasis on letters and email communications between the U.S. Fish and Wildlife Service; document 2 with emphasis on Appendix G; document 3 with emphasis on Attachment A and document 4.

The Corps agrees to construct the project in accordance with the provisions of this permit and associated documentation. To the extent sovereign immunity has been waived under 33 U.S.C. § § 1323 and 1344(t), the Corps' agreement to construct the project in accordance with the provisions of this permit and supporting documentation is an enforceable condition of this permit.

GENERAL CONDITIONS:

1. All activities approved shall be implemented as set forth in the drawings incorporated by reference and in compliance with the conditions and requirements of this document. The Corps shall notify the Department in writing of any anticipated changes in:
 - A. operational plans;
 - B. project dimensions, size or location;
 - C. ability to adhere to permit conditions;
 - D. project description included in the permit, and;
 - E. monitoring plans.

If the Department determines that a modification to the permit is required then the Corps shall apply for and obtain the modification. Department approval of the modification shall be obtained prior to implementing the change, unless the change is determined by the Department to reduce the scope of work from that authorized under the original permit, and will not effect compliance with permit conditions or monitoring requirements.

2. If, for any reason, the Corps does not comply with any condition or limitation specified herein, the Corps shall immediately provide the Department with a written report containing the following information:
 - A. a description of and cause of noncompliance;
 - B. the period of noncompliance, including dates and times;
 - C. impacts resulting or likely to result from the non-compliance;
 - D. steps being taken to correct the non-compliance, and;
 - E. the steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Compliance with the provisions of this condition shall not preclude the Department from taking any enforcement action allowed under state law with respect to any non-compliance

3. The Corps shall obtain any applicable licenses, permits, or other authorizations, which may be required by federal, state, local or special district laws and regulations. Nothing herein constitutes a waiver or approval of other Department permits or authorizations that may be required for other aspects of the total project.
4. Nothing herein conveys to the Corps or creates in the Corps any property right, any interest in real property, any title to land or water, constitutes State recognition or acknowledgment of title, or constitutes authority for the use of Florida's sovereign submerged lands seaward of the mean high-water line or an established erosion control line, unless herein provided, and the necessary title, lease, easement, or other form of consent authorizing the proposed use has been obtained from the State.
5. Any delineation of the extent of a wetland or other surface water submitted as part of the application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this authorization or a formal determination under section 373.421(2), F.S., provides otherwise.
6. Nothing herein authorizes any entrance upon or activities on property which is not owned or controlled by the Corps or local sponsor, or conveys any vested rights or any exclusive privileges.

7. This document or a copy thereof, complete with all conditions, attachments, modifications, and time extensions shall be kept at the work site of the authorized activity. The Corps shall require the contractor to review this document prior to commencement of the authorized activity.
8. The Corps specifically agrees to allow Department personnel with proper identification, at reasonable times and in compliance with Corps specified safety standards access to the premises where the authorized activity is located or conducted for the purpose of ascertaining compliance with the terms of this document and with the rules of the Department and to have access to and copy any records that must be kept; to inspect the facility, equipment, practices, or operations regulated or required; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance. Reasonable time may depend on the nature of the concern being investigated.
9. At least forty-eight (48) hours prior to the commencement of authorized activity, the Corps shall submit to the Department a written notice of commencement of activities indicating the anticipated start date and the anticipated completion date.
10. If historic or archaeological artifacts such as, but not limited to, Indian canoes, arrow heads, pottery or physical remains, are discovered at any time on the project site, the Corps shall immediately stop all activities which disturb the soil and notify the Department and the State Historic Preservation Officer.
11. Within a reasonable time after completion of construction activities authorized by this permit, the Corps shall submit to the Department a written statement of completion. This statement shall notify the Department that the work has been completed as authorized and shall include a description of the actual work completed. The Department shall be provided a copy of any as-built drawings required of the contractor or survey performed by the Corps.

SPECIFIC CONDITIONS:

1. **Instructions to Contractors.** The permittee shall ensure that the permit conditions are explained to all construction personnel working on the project component and shall give a copy of this permit to each contractor and subcontractor before the authorized work begins. Prior to construction, the permittee shall schedule a pre-construction meeting for attendance by the contractor(s), and representatives from the Corps, the Department, and other environmental regulatory agencies. The Department shall receive at least two weeks notice of the meeting. The proposed construction schedule shall be provided at the pre-construction meeting.
2. **Addresses.** Reports and notices submitted to the Department in accordance with this permit shall be submitted to the Department's Division of Water Resource Management, Water Quality Standards and Special Projects Program, 2600 Blair Stone Road, MS 3560, Tallahassee, Florida, 32399-2400, telephone no. (850) 245-8416, and to the Department's Southeast District Office, Water Resource Management & Environmental Planning, 400 North Congress Avenue, Suite 200, West Palm Beach, Florida 33401, telephone no. (561) 681-6709.
3. **Threatened and Endangered Species.** The Corps will comply with federal law with regard to protected species and agree to consider input from and to comply with requirements of the Florida Fish and Wildlife Conservation Commission to the extent that to do so would not create an irreconcilable conflict with the Corps federal responsibilities. The Corps must coordinate with all involved federal and state agencies to determine if there are reasonable alternatives that would avoid an irreconcilable conflict.
4. **Board of Trustees Lands.** In implementing the 8.5 SMA, the Corps shall obtain proprietary authorization from the Board of Trustees, as required by Chapter 18-2, F.A.C., prior to conducting any activities on or otherwise impacting any Board of Trustees' owned upland parcels.

Construction

5. **Authorized Construction:** This permit authorizes construction of all features of the 8.5 Square Mile Area component in accordance with the permit application and associated plans and technical specifications submitted to the Department on March 10, 2005. Specifically, the construction of the 8.5 Square Mile Area component shall be in accordance with the Modified Water Deliveries to Everglades National Park, 8.5 Square Mile Area, Pump Station 357, Canals & Levees Construction and Solicitation Specifications dated April 2004 including Amendments one and three; the plans for the 8.5 SMA Canal and Levee – Option A dated April 2004; and the plans for the 8.5 SMA

Stormwater Treatment Area (STA) – Option B dated April 2004. If there are changes in project dimensions, size or location; environmental impacts; operational plans; ability to adhere to permit conditions; the project description included in the permit; or the treatment technology, the permittee will notify the Department for a determination of whether a permit modification is appropriate. In any case, the permittee shall submit final (100%) plans to the Department for review at least 30 days prior to initiating construction activities.

6. **Future Phases.** This permit does not authorize any construction activities associated with future portions of the Modified Waters Project. Future phases will require separate review and approval by the Department.
7. **Construction Best Management Practices (BMPs).** At all times during the construction, the permittee shall use best management techniques for erosion and sedimentation control. All graded areas shall be stabilized and vegetated immediately after construction to prevent erosion. The permittee shall take all reasonable precautions to minimize the suspension and transport of soils, levee materials, and roadway materials into waters adjacent to or downstream of the construction site in accordance with Sections 01355 of the Technical Specifications for this project.
8. **Environmental Protection Plan.** A copy of the contractor's Environmental Protection Plan shall be provided to the Department's representative at the preconstruction conference and to the Department offices at the addresses listed in Specific Condition No. 2.
9. **Turbidity Monitoring.** Although turbidity is not expected to be a problem during the 8.5 SMA project, effective means of turbidity control, such as, but not limited to, turbidity curtains, shall be employed during all operations that may create turbidity so that it shall not exceed 29 NTU's above background in any waters of the state. In the event that turbid water will be discharged to surface waters, the permittee shall implement a turbidity control and monitoring plan. In the event that project-generated turbidity levels beyond the work areas exceed the standard (29 NTU's above background), project activities contributing to elevated turbidity levels shall immediately cease, and the Department shall be notified immediately. Work shall not resume until the work can be conducted in compliance with the aforementioned turbidity standard.
10. **Adjacent and Interior Wetlands.** Prior to the commencement of construction, the perimeter of the protected wetlands adjacent to the construction area shall be staked and fenced off with construction fencing or other effective physical barriers to prevent encroachment into the wetlands. The permittee shall notify the Department's environmental compliance staff in writing upon completion of installation the barriers and schedule an inspection of this work. The barriers shall remain in place until all adjacent construction activities are complete. Where appropriate, interior wetland areas may also be fenced off to prevent encroachment and disturbance during construction.
11. **NPDES Generic Permit for Stormwater Discharge from Large and Small Construction Activities.** The issuance of this Permit does not constitute coverage under the National Pollutant Discharge Elimination System (NPDES) Generic Permit for Stormwater Discharges from Large and Small Construction Activities (CGP) pursuant to Rule 62-621.300(4)(a), F.A.C. Permittee is advised to contact the Department's NPDES Stormwater Program at (850) 245-7522 or toll free at (866) 336-6312 or to download application information at <http://www.dep.state.fl.us/water/stormwater/npdes/construction3.htm#permit>. Prior to the commencement of any construction.
12. **NPDES General Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity.** The issuance of this Permit does not constitute coverage under the NPDES General Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity pursuant to 62-621.300(2), F.A.C. If any offsite discharges will occur due to construction dewatering activities, then coverage under the aforementioned General Permit may be required and the permittee is advised to review Rule 62-621.300(2), F.A.C. Before discharge of produced ground water can occur, analytical tests on samples of the proposed discharge water shall be performed to determine if contamination exists. If the analytical results comply with applicable criteria for use of the General Permit, then a short summary of the proposed activity and copy of the analytical tests shall be sent to the addresses in Specific Condition No. 2 within one week after discharge begins, and the permittee may proceed with the project component while abiding by all conditions of the General Permit.
13. **Dewatering.** If any discharges will occur due to construction dewatering activities, the permittee shall instruct the contractor to submit site-specific dewatering information to the Department for review and approval at least 90 days prior to commencement of dewatering activities. A permit modification is not required for this condition but

Dewatering shall not commence until the Department has reviewed the dewatering information and provided a written response. The information submitted shall include at a minimum:

- A. Site plan of the project component with the location of the proposed discharge point(s) and their associated water quality monitoring locations;
 - B. The location and type of turbidity control devices and methods necessary to ensure state water quality standards will be met;
 - C. Calculations estimating the area of influence of dewatering; the depth of dewatering, pumpage rates, duration and volumes and a demonstration that the requested allocations represent reasonable dewatering needs;
 - D. Provide reasonable assurances that the dewatering water will remain onsite. If it is not technically feasible to retain dewatering water onsite then the plan shall also include:
 1. Demonstration and documentation that the permittee is allowed to discharge to the receiving water body and/or adjacent lands;
 2. Operational plan, which demonstrates that the discharge to the receiving water body will meet all applicable State Water Quality standards prior to discharge, and also contains the proposed sampling locations and daily turbidity measurements; and,
 3. A contingency plan, which includes procedures for ceasing dewatering operations and correcting the situation until water quality standards are met.
14. **Operational Readiness and Maintenance Pumping.** In order to ensure operational readiness, limited pumping activities may be needed by the construction contractor for the pump stations authorized by this permit prior to turnover of the pump station to the permittee for operation. Maintenance requirements for the pump station include operation of the pumps for approximately two to four hours per month, as necessary, to maintain their mechanical integrity. Therefore, temporary operation of the pump station for operational readiness and maintenance activities will be allowed.
15. **Pump Station Testing.** Additional information may be needed to determine the appropriate operating plan for the 8.5 SMA structures. Pump station testing may be required to provide water quality characterization, examine flow patterns, drawdown flow rates, seepage rates, etc. At least 90 days prior to any pump station testing, the permittee must submit a detailed plan, which will describe the purpose of the test, how the structure(s) will be operated during the test, and will contain a monitoring plan to assess water quality. The Department shall review the proposed monitoring plan and indicate approval, request clarifications, or suggest modifications within 30 days of the Department's receipt of the monitoring plan. Department approval of the plan must be obtained prior to the initiation of any pump station testing.

Operations

16. **Operational Authorization.** This permit does not constitute operational authorization for any features of the Modified Waters Project. Prior to initiating operations, operational authorization shall be obtained from the Department in the form of a modification to this permit or separate operational permit.

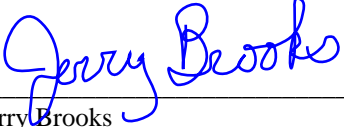
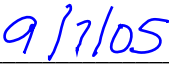
Renewals and Modifications

19. **Permit Modifications.** The permittee shall submit proposed modifications of the 8.5 SMA Project to the Department, prior to implementation of the modification, for review and approval by the Department.
20. **Permit Renewal.** At least 60 days prior to the expiration of this permit, the permittee shall apply for renewal of this permit. Renewal may be for a period of up to five years in accordance with Subsection (3)(g) of the CERPRA.
21. **Department Review and Approval.** Where conditions in this permit require Department review of remedial actions or plan modifications to be implemented pursuant to this permit, the Department will consult with the permittee to ascertain whether mutual agreement can be reached. If mutual agreement on the remedial actions or plan modifications cannot be reached, the action of the Department will be deemed final agency action and will be subject to judicial or administrative review, as appropriate.

Permittee: United States Army Corps of Engineers
Project: 8.5 Square Mile Area Construction Project
File No.: 0246512-001
Page 7 of 8

Executed in Tallahassee, Florida.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Jerry Brooks Date
Deputy Division Director
Division of Water Resource Management

JB/tm/sy

FILING AND ACKNOWLEDGMENT

FILED, on this date, with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk Date

Electronic copies to:

Joe Martinez, Miami-Dade Board of County Commissioners
John Adornato, National Parks Conservation Association
Cynthia Guerra, Tropical Audubon Society
Dexter Lehtinen, Lehtinen, O'Donnell, Vargas, & Reiner, P.A.
Kelly Brooks, Lehtinen, O'Donnell, Vargas, & Reiner, P.A.
Tom MacVicar, MacVicar, Frederico, & Lamb
Charles Lee, Florida Audubon Society
Marcia Levinson, Dade County, DERM
Mary Ann Poole, USFWS
Dan Nehler, USFWS
Jay Slack, USFWS
Kevin Palmer, USFWS
Kim Taplin, USACE
Tambour Eller, USACE
Jim Riley, USACE
Ken Haddad, FFWCC
Dan Kimbell, ENP
David Sikkema, ENP
Mike Zimmerman, ENP
Paul Linton, SFWMD
Julia Lacy, SFWMD
Linda McCarthy, FDACS
Ernie Barnett, FDEP
Frank Nearhoof, FDEP
Temperince Morgan, FDEP
Inger Hansen, FDEP

Permittee: United States Army Corps of Engineers
Project: 8.5 Square Mile Area Construction Project
File No.: 0246512-001
Page 8 of 8

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this, including all copies, were mailed or emailed before the close of business on 9/7/05, to the above listed persons.



Jennifer Kretschman, Senior Clerk

Modified Water Deliveries

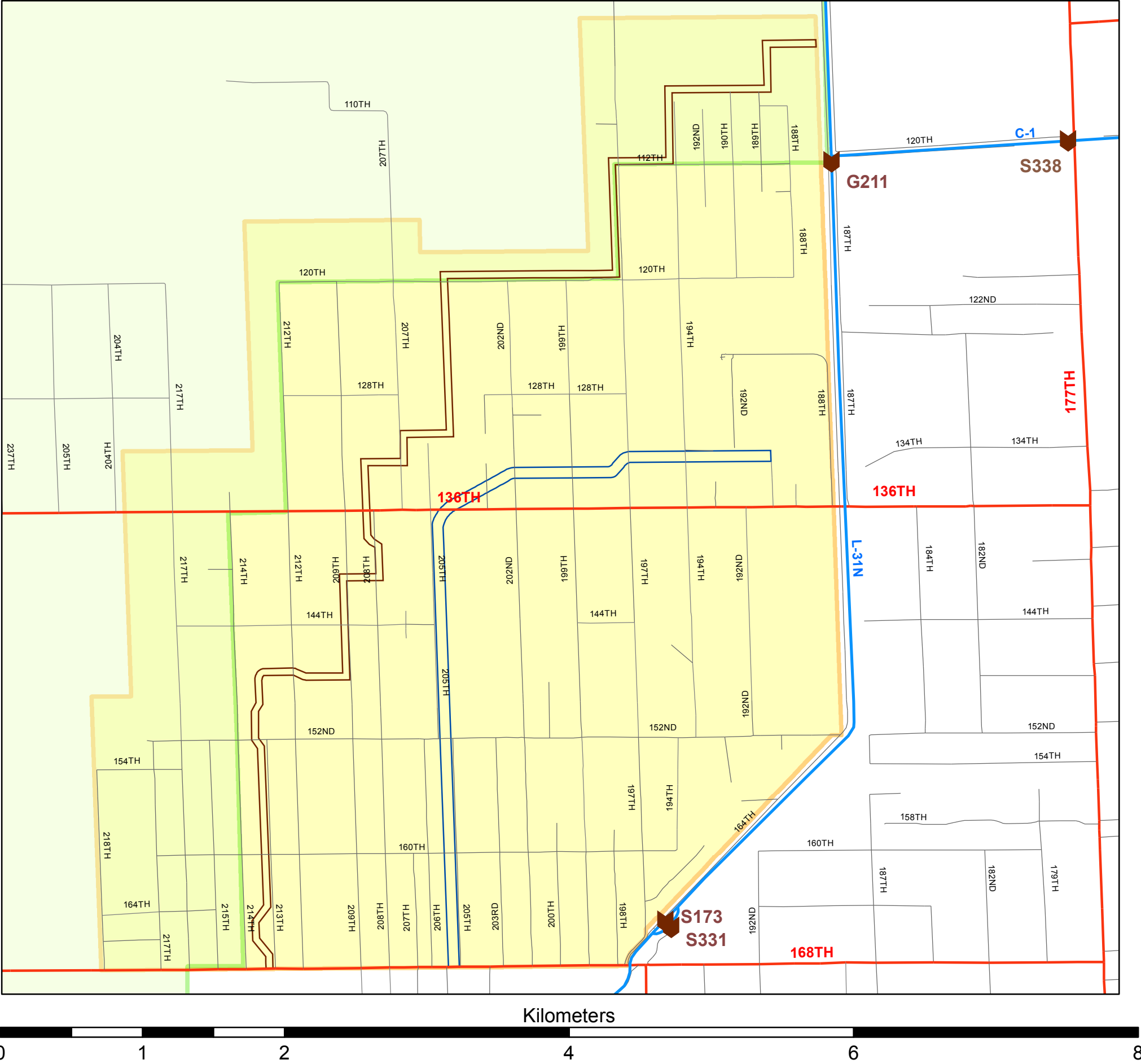


Figure 1 - Base Map

Legend

- Project Area (6409 Acres)
- Everglades National Park
- Water Control Structures
- Canals
- Streets**
 - Highways
 - Local Major
 - Local
- Project Features**
 - Canal & Internal Levees
 - Perimeter Levee

